

MEDICAL CONTESTED CASE HEARING NO 12031
M6-12-36593-01

DECISION AND ORDER

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and Rules of the Division of Workers' Compensation adopted thereunder.

ISSUES

A contested case hearing was held on November 2, 2011 to decide the following disputed issue:

Is the preponderance of the evidence contrary to the decision of the Independent Review Organization (IRO) that the Claimant is not entitled to left psoas compartment plexus block with trigger point injections to the paraspinal injections to the paraspinal muscle under fluoroscopic guidance for the compensable injury of (Date of Injury)?

PARTIES PRESENT

Petitioner/Claimant appeared and was assisted by NG, ombudsman.
Respondent/Carrier appeared and was represented by RM, adjuster.

BACKGROUND INFORMATION

The Claimant sustained a compensable injury on (Date of Injury) as a result of a slip and fall. Claimant has undergone two lumbar MRI's and an EMG/NCV which were all reported as normal. Claimant testified that she has had nine sessions of physical therapy and one injection and that the injection only provided her about one week of relief. The Claimant's treating doctor, Dr. C, has recommended a left psoas compartment plexus block with trigger point injections to the paraspinal injections to the paraspinal muscle under fluoroscopic guidance. This request was denied by the Carrier and submitted to an IRO who upheld the Carrier's denial.

The IRO reviewer, identified as a board certified anesthesiologist, noted that the previous reviewers carefully examined the clinical history and noted the lack of response to previously provided interventional procedures and that there is difficulty with localization and effective performance of these injections. The IRO reviewer determined that, given the lack of sustained response to the previous injections, the guidelines (Official Disability Guidelines) have not been satisfied and that there was no medical necessity for the left psoas compartment plexus block with trigger point injections to the paraspinal injections to the paraspinal muscle under fluoroscopic guidance.

Texas Labor Code Section 408.021 provides that an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. Health care reasonably required is further defined in Texas Labor Code Section 401.011 (22a) as health care that is clinically appropriate and considered effective for the injured employee's injury and provided in accordance with best practices consistent with evidence based medicine or, if evidence based medicine is not available, then generally accepted standards of medical practice recognized in the medical community. Health care under the Texas Workers' Compensation system must be consistent with evidence based medicine if that evidence is available. Evidence based medicine is further defined in Texas Labor Code Section 401.011 (18a) to be the use of the current best quality scientific and medical evidence formulated from credible scientific studies, including peer-reviewed medical literature and other current scientifically based texts and treatment and practice guidelines in making decisions about the care of individual patients. The Commissioner of the Division of Workers' Compensation is required to adopt treatment guidelines that are evidence-based, scientifically valid, outcome-focused and designed to reduce excessive or inappropriate medical care while safeguarding necessary medical care. Texas Labor Code Section 413.011(e). Medical services consistent with the medical policies and fee guidelines adopted by the commissioner are presumed reasonable in accordance with Texas Labor Code Section 413.017(1).

In accordance with the above statutory guidance, the Division of Workers' Compensation has adopted treatment guidelines by Division Rule 137.100. This rule directs health care providers to provide treatment in accordance with the current edition of the ODG, and such treatment is presumed to be health care reasonably required as defined in the Texas Labor Code. Thus, the focus of any health care dispute starts with the health care set out in the ODG. Also, in accordance with Division Rule 133.308 (t), "A decision issued by an IRO is not considered an agency decision and neither the Department nor the Division are considered parties to an appeal. In a Contested Case Hearing (CCH), the party appealing the IRO decision has the burden of overcoming the decision issued by an IRO by a preponderance of evidence-based medical evidence."

ODG Recommendations:

Criteria for the use of Trigger point injections:

Trigger point injections (TPI) with a local anesthetic with or without steroid may be recommended for the treatment of chronic low back or neck pain with myofascial pain syndrome (MPS) when all of the following criteria are met:

- (1) Documentation of circumscribed trigger points with evidence upon palpation of a twitch response as well as referred pain;
- (2) Symptoms have persisted for more than three months;
- (3) Medical management therapies such as ongoing stretching exercises, physical therapy, NSAIDs and muscle relaxants have failed to control pain;

- (4) Radiculopathy is not an indication (however, if a patient has MPS plus radiculopathy a TPI may be given to treat the MPS);
- (5) Not more than 3-4 injections per session;
- (6) No repeat injections unless a greater than 50% pain relief with reduced medication use is obtained for six weeks after an injection and there is documented evidence of functional improvement;
- (7) Frequency should not be at an interval less than two months;
- (8) Trigger point injections with any substance (e.g., saline or glucose) other than local anesthetic with or without steroid are not recommended;
- (9) There should be evidence of continued ongoing conservative treatment including home exercise and stretching. Use as a sole treatment is not recommended;
- (10) If pain persists after 2 to 3 injections the treatment plan should be re-examined as this may indicate an incorrect diagnosis, a lack of success with this procedure, or a lack of incorporation of other more conservative treatment modalities for myofascial pain. It should be remembered that trigger point injections are considered an adjunct, not a primary treatment.

Pursuant to the ODG, no repeat injections are recommended unless a greater than 50% pain relief with reduced medication use is obtained for six weeks after an injection and there is documented evidence of functional improvement. The IRO reviewer noted that this was not documented in the medical records and the Claimant testified that the first injection provided temporary relief for about one week. Dr. C provided a letter of medical necessity regarding the request for the first injection; however, that response fails to address the concerns of the IRO regarding the necessity for a repeat injection, specifically, the lack of sustained response to the previous injection. Based on the evidence presented, Claimant failed to provide an evidence-based medical opinion sufficient to contradict the determination of the IRO and the preponderance of the evidence is not contrary to the decision of the IRO.

Even though all the evidence presented was not discussed, it was considered. The Findings of Fact and Conclusions of Law are based on all of the evidence presented.

FINDINGS OF FACT

1. The parties stipulated to the following facts:
 - A. Venue is proper in the (City)Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
 - B. On (Date of Injury), Claimant was the employee of (Employer), when she sustained a compensable injury.

2. Carrier delivered to Claimant a single document stating the true corporate name of Carrier, and the name and street address of Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. The treating doctor requested the Claimant undergo a left psoas compartment plexus block with trigger point injections to the paraspinal injections to the paraspinal muscle under fluoroscopic guidance for the compensable injury of (Date of Injury).
4. Claimant does not meet the requirements of the ODG for a left psoas compartment plexus block with trigger point injections to the paraspinal injections to the paraspinal muscle under fluoroscopic guidance and she failed to present other evidence based medicine sufficient to overcome the determination of the IRO.
5. A left psoas compartment plexus block with trigger point injections to the paraspinal injections to the paraspinal muscle under fluoroscopic guidance is not health care reasonably required for the compensable injury of (Date of Injury).

CONCLUSIONS OF LAW

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.
2. Venue is proper in the (City)Field Office.
3. The preponderance of the evidence is not contrary to the decision of the IRO that a left psoas compartment plexus block with trigger point injections to the paraspinal injections to the paraspinal muscle under fluoroscopic guidance is not health care reasonably required for the compensable injury of (Date of Injury).

DECISION

Claimant is not entitled to a left psoas compartment plexus block with trigger point injections to the paraspinal injections to the paraspinal muscle under fluoroscopic guidance for the compensable injury of (Date of Injury).

ORDER

Carrier is not liable for the benefits at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TX 78701**

Signed this 2nd day of November, 2011.

Carol A. Fougerat
Hearing Officer